

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION

Case No. 12-md-2323 (AB)

MDL No. 2323

Kevin Turner and Shawn Wooden,  
*on behalf of themselves and others  
similarly situated,*

**Hon. Anita B. Brody**

Plaintiffs,

National Football League and  
NFL Properties LLC,  
successor-in-interest to NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

**MOTION TO ACCEPT OBJECTION TO FIVE PERCENT SET-ASIDE  
FILED ON MARCH 27, 2017 UNDER THE WRONG CASE NUMBER  
AND MOTION FOR EXTENSION OF TIME TO FILE OBJECTION**

Class Members and Retired Players DeAndra' Cobb, Robert Brannon, Tim McTyer, Eric Starr, Randy Phillips, Eric Green, Reggie Freeman, Siupeli Malamala, Holbert Johnson, Scot Kirby, Eric Streater, Woodrow Lowe, Javarris James, DaJuan Morgan, Dedrick Epps, Steven Harris, Davlin Mullen, Michael Merritt, Cornel Webster, Ron Edwards, Claude Wroten, Johnnie Lynn, David Sims, Gary Mullen, Kim Anderson, Brandon Banks-McNair, Shawn Banks, Fred Bennet, Lyther Broughton, Marquice Cole, Walter Curry, Joshua Bell, Emanuel Cook, Corvey Irvin, Anthony Allen, Michael Coe, Creico Murray, Ed Phillon, Stefan Logan, Britt Davis, Kynan Forney, Deveron Harper, Robert Hicks, Dale Jones, Frank Leatherwood, Durwood Roquemoire, Derek Walker, Markus White

and Jenorris James (collectively the “Cobb Class Members”), by and through their undersigned counsel, file this Motion to Accept Objection Filed on March 27, 2017 Under the Wrong Case Number to the Set-Aside of Five Percent of all Monetary Awards Requested in Co-Lead Counsel’s Petition for an Award of Attorney’s Fees [ECF No. 7151], and Motion for Enlargement of Time to File Objection, and support thereof states as follows:

1. On March 8, 2017, this Court entered an Order [ECF 7261] holding, among other things, that all objections to Co-Lead Class Counsel’s Petition for an Award of Attorneys’ Fees [ECF 7151] must be filed by March 27, 2017.

2. On March 27, 2017, Co-Counsel for the Cobb Class Members Michael St. Jacques, Esq., filed an Objection and Memorandum of Law (the “Objection”) in support on behalf of the clients. A copy of the first nine pages of the filed Objection (without client signatures) is attached as **Exhibit A**. However, the Objection was filed in the wrong case through the MDL CM/ECF portal rather than in this case through the Eastern District’s portal.

3. The Cobb Class Members respectfully request that the Court accept their Objection and allow the undersigned counsel to file the objection correctly in this action.

4. Federal Rule of Civil Procedure 6(b)(1)(B) provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time . . . on motion made after the time has expired if the party failed to act because of excusable neglect.

Fed. R. Civ. Pro. 6(b)(1)(B).

5. In *Consolidated Freightways Corp. of Delaware v. Larson*, counsel erroneously prepared a notice of appeal that listed the Eastern District of Pennsylvania rather than the Middle District of Pennsylvania in the caption. Due to the mistake, the notice of appeal was mailed to the wrong district and, by the time it was delivered to the correct district, missed the filing deadline. *See*

*Consolidated Freightways Corp. of Delaware v. Larson*, 827 F.2d 916, 920 (3d Cir. 1987). Despite filing the appeal in the wrong court, the Third Circuit held that the lawyer made a good faith effort to comply with the 30 day filing deadline and quickly took action to cure his error, which amounted to excusable neglect. *See id.*

6. The undersigned counsel acted in good faith in preparing and timely filing the Objection within the deadline (though erroneously filed through the MDL portal), and acted quickly in taking all steps to cure the filing defect and minimize any potential prejudice to Lead Class Counsel.

WHEREFORE, the Cobb Class Members respectfully request that the Court grant their motion to accept the Objection as timely filed on March 27, 2017, grant the motion requesting an extension of time to allow the motion to be correctly filed in this action *nunc pro tunc* and grant such further relief as this Court deems just and proper.

Dated: March 28, 2017

Respectfully Submitted,

*s/ Michael St. Jacques*

**MICHAEL G. ST. JACQUES, II**

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2017, the foregoing document was electronically filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, and that the filing is available for downloading and viewing from the electronic court filing system by counsel for all parties.

**LOREN & KEAN LAW**

*s/ Michael St. Jacques*

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**MICHAEL G. ST. JACQUES, II**